

**Appeal Nos. 2023-1917, 2023-1918, and 2023-1919**

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**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

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QUANTIFICARE S.A.,

*Appellant*

v.

CANFIELD SCIENTIFIC, INC.,

*Appellee.*

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*On Appeal from the United States Patent and Trademark Office,  
Patent Trial and Appeal Board in  
Nos. IPR2021-01511, IPR2021-01518, IPR2021-01519*

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**JOINT MOTION FOR A 10-DAY EXTENSION OF TIME FOR APPELLEE  
TO FILE ITS RESPONSIVE BRIEF AND A 14-DAY EXTENSION OF  
TIME FOR APPELLANT TO FILE ITS REPLY BRIEF**

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Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellee Canfield Scientific, Inc. (“Canfield”) and Appellant QuantifiCare S.A. (“QuantifiCare”) respectfully move this Court for an extension of time of ten (10) days for Appellee to file its responsive brief and for an extension of time of fourteen (14) days for Appellant to file its reply brief. The Appellee’s Response is currently due on December 11, 2023. Dkt. 19, Order dated October 16, 2023. A 10-day extension would extend the deadline for Petitioner-Appellee’s Response to December 21, 2023. Appellant’s Reply is due on February 27, 2024. Dkt. 19. A 14-day extension would extend the deadline for Appellant’s Reply to March 12, 2024. This is Appellee’s second request for an extension of time, and Appellant’s second request for an extension of time. *See* Dkt. 18, first Joint Motion for extension of time. QuantifiCare has agreed to not oppose Appellee’s request for an extension provided that the Court grants Appellant’s extension request, and Canfield has agreed to not oppose Appellant’s request for an extension.

Appellee does not seek this extension for the purposes of delay, but rather to permit counsel for Canfield adequate time to prepare its Response in view of the demands of other matters, both professional and personal.

Appellant also does not seek this extension for the purposes of delay, but rather to permit counsel for QuantifiCare adequate time to prepare its Reply in

view of the demands of other matters, both professional and personal, made relevant by Canfield's request for an extension.

Pursuant to Federal Circuit Rule 26(b)(3), the Declaration of Thomas L. Duston and the Declaration of Kevin L. Reiner are submitted in further support of this Motion.

For all of the foregoing reasons, the parties respectfully request that the Court grant the Joint Motion for a 10-day extension of time to file the responsive brief for Appellee through and including December 21, 2023 and for a 14-day extension of the time to file the reply brief for Appellant through and including March 12, 2024.

Dated: December 4, 2023

By: /s/ Thomas L. Duston

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Respectfully submitted,

By: /s/ Kevin L. Reiner

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*Counsel for Appellant*

**DECLARATION OF THOMAS L. DUSTON**

1. I am an attorney admitted to the bar of this Court, and I am a partner at the law firm Marshall, Gerstein & Borun LLP. I am counsel in this appeal for Appellee Canfield Scientific, Inc. (“Canfield”).

2. I have knowledge of the facts set forth herein, and if called upon as a witness, I could testify to them under oath.

3. I make this Declaration in support of Appellee’s Unopposed Motion for a 10-Day Extension of Time To File Its Responsive Brief.

4. Canfield seeks the requested 10-day extension of time not for the purpose of delay, but to ensure that counsel integrally involved in the appeal have sufficient time to fully and thoroughly address the issues in this appeal, while accounting for the demands of other matters, both professional and personal.

5. Counsel for Appellant QuantifiCare S.A. have informed us that they will not oppose this Motion.

6. A 10-day extension of time is warranted here in that it is needed to provide counsel for Canfield additional time to prepare its responsive brief due to the workload of Canfield’s counsel on other litigation matters.

7. For example, I am counsel of record in each of the following cases, each of which has or had recent or imminent deadlines for preparing claim constructions materials, taking and defending depositions, preparing witnesses,

filing briefs, and/or in which fact discovery is closing, that have all diverted time available for counsel to complete Canfield's response. *See, e.g., Think Green Limited v. Medela AG, et al.*, Case No. 1:21-cv-05445 (U.S. District Court for the Northern District of Illinois); *Illinois Tool Works, Inc. v. Termax Company*, Case No. 1:20-cv-05416 (U.S. District Court for the Northern District of Illinois); *Streck, Inc. and Streck LLC v. Ravgen, Inc.*, Case No. 23-1989 (U.S. Court of Appeals for the Federal Circuit); *Apple, Inc. v. International Trade Commission*, Case No. 23-1509 (U.S. Court of Appeals for the Federal Circuit) (amicus); *Sobansky v. Ravgen, Inc.*, Case No. 8:23-cv-00398-JMG-CRZ (U.S. District Court for the District of Nebraska).

8. My colleagues on this appeal have similar competing demands, both professional and personal, throughout this period, including deadlines in other cases, client meetings on other matters, and business travel.

9. Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 4, 2023

/s/ Thomas L. Duston  
Thomas L. Duston

**DECLARATION OF KEVIN L. REINER**

1. I am an attorney admitted to the bar of this Court, and I am a partner at the law firm McCarter & English, LLP. I am counsel of record in these appeals for Appellant QuantifiCare S.A. (“QuantifiCare”).

2. I have knowledge of the facts set forth herein, and if called upon as a witness, I could testify to them under oath.

3. I make this Declaration with respect to the parties’ Joint Motion for a 10-Day Extension of Time for Appellee to File Its Responsive Brief and a 14-Day Extension of Time for Appellant to File Its Reply Brief.

4. Counsel for Appellee Canfield Scientific, Inc. (“Canfield”) have informed us that they do not oppose the extension of time QuantifiCare requests to file its Reply brief.

5. QuantifiCare seeks the requested extension not for the purpose of delay, but to ensure that counsel for QuantifiCare integrally involved in the appeal have sufficient time to fully prepare QuantifiCare’s Reply brief in view of other matters, both professional and personal, that have become relevant in view of the 10-day extension sought by Canfield.

6. A 14-day extension of time is warranted and needed to provide counsel for QuantifiCare additional time to prepare its Reply brief due to the workload of counsel on other client matters from December 2023 through March

2024, which also includes the Christmas and New Year's holidays, and other professional and personal obligations. For example, principal counsel Mark D. Giarratana and I are counsel of record in *Seoul Semiconductor Co., Ltd. v. Finelite, Inc.*, Case No. 3:22-cv-02869-TLT (U.S. District Court for the Northern District of California), which involves fourteen (14) patents-in-suit and has court-ordered deadlines and work needed to be done in December through March 2024, including preparing for and traveling to a *Markman* hearing in the case, discovery, and other pre-trial matters. In addition, in reliance on that the Reply brief would be filed by its current deadline of October 31, 2023, counsel moved and scheduled other work and personal commitments into December through February that affect counsel's ability to work on the Reply.

7. Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 4, 2023

/s/ Kevin L. Reiner  
Kevin L. Reiner

FORM 9. Certificate of Interest

Form 9 (p. 1)  
March 2023

**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

**CERTIFICATE OF INTEREST**

**Case Number** 23-1917

**Short Case Caption** Quantificare S.A. v. Canfield Scientific, Inc.

**Filing Party/Entity** Canfield Scientific, Inc.

**Instructions:**

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 10/03/2023

Signature: /s/ Thomas L. Duston

Name: Thomas L. Duston



**Form 9 (p. 2)**  
**March 2023**

[illegible]

☐ Additional pages attached

## FORM 9. Certificate of Interest

Form 9 (p. 3)  
March 2023

**4. Legal Representatives.** List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable

☐ Additional pages attached

Marshall, Gerstein & Borun LLP: Thomas L. Duston; Julianne M. Hartzell; Michael R. Weiner; Chelsea M. Murray; Isha Shah		
David C. Stanziale, LLC: David C. Stanziale		

**5. Related Cases.** Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

☒ Yes (file separate notice; see below)    ☐ No    ☐ N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

**6. Organizational Victims and Bankruptcy Cases.** Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable

☐ Additional pages attached

**CERTIFICATE OF COMPLIANCE**

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because the filing has been prepared using a proportionally spaced typeface and includes 340 words.

Date: December 4, 2023

Respectfully submitted,

/s/ Thomas L. Duston

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